



UNITED STATES PATENT AND TRADEMARK OFFICE

cel

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,359	08/27/2001	Jeffrey S. Weaver	10006354-1	4997

7590 08/19/2005
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

EMDADI, KAMRAN

ART UNIT PAPER NUMBER

2667

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/940,359	WEAVER, JEFFREY S.	
	Examiner	Art Unit	
	Kamran Emdadi	2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-8,10-13,16,17,20-25,28-36 and 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,4,10-13,20-25,28,29,32,33 and 39 is/are allowed.
- 6) ☒ Claim(s) 5-8,16,17,30,31 and 34-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Claims 3-8, 10-13, 16-17, 20-25, 28-36 and 39 remain pending in the present application. Applicant's arguments with respect to claims 5-8, 16-17, 30-31 and 34-36 have been considered but are moot in view of the new ground(s) of rejection. All other pending claims 3-4, 10-13, 20-25, 28-29, 32-33 and 39 have been allowed.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 31 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The wherein clause near the end of claim 31 recites a feature regarding a local address and "not to identify a second packet" that is not supported by the specification, which recites:

This destination address is compared to a list of local addresses at 146. If the destination address is local, then the packet is forwarded for TCP/UDP at 148. If it is not local, then the packet is buffered in the appropriate output buffer at 150 to await transmission or consolidation.

Again, nowhere does the specification support the feature recited in the wherein clause of claim 31. The feature must be deleted or the claim cancelled.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites "generating the plurality of voice data packets", there is no antecedent basis for "the plurality of voice data packets" then the claim language proceeds to discuss "the data packets" as if they are "the plurality of voice data packets", this is improper. A clear distinction must be drawn between the voice and the data packets, if indeed there is any difference, otherwise the two types of data packets should be recited consistently throughout the claim language.

Similarly, claim 17 is also rejected for the same reason as claim 16.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 5-8, 16-17, 30-31 and 34-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Turner et al. (U.S. Patent No. 6,438,137).

Regarding claims 5-8, Turner teaches a plurality of packets to be routed via a consolidation means including, reading the packet's header to determine its next hop destination (see column 5, lines 22-30). Turner further teaches buffering/accumulating a plurality of packets and identifying at least a first and second packet aggregated together to form a consolidated/aggregated packet (see column 5, lines 40-45). A specific scenario disclosed in Turner includes aggregating packets with the same next hop or destination address (see column 6, lines 45-52).

Regarding the priority flag in claims 8 and 35, Turner teaches performing the aggregation of packets with a quality of service requirement indicating a time sensitive priority (see column 7, lines 55-62).

Regarding claims 16-17 and 36, in addition to the above, Turner teaches voice signals included in the data packets (see column 10, lines 57-60).

Regarding claims 30-31 and 34, in addition to the above, Turner teaches a plurality of ports (see column 4, lines 20-25), a memory (see column 12, lines 5-10) and a processor (see column 4, lines 50-54).

Allowable Subject Matter

Claims 3-4, 10-13, 20-25, 28-29, 32-33 and 39 are allowed.

The reasons for allowance of claims 3-4, 10-13, 20-25, 28-29, 32-33 and 39 are evident in the prior office action dated April 14, 2005 and further in the Applicant's arguments received July 14, 2005.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamran Emdadi whose telephone number is 571-272-6047. The examiner can normally be reached on M-F between the hours of 8am-5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2667

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kamran Emdadi

August 15, 2005


CHI PHAM
SUPERVISORY PATENT EXAMINE
TECHNOLOGY CENTER 2000 8/16/05